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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed January 4, 2006. In the Office Action, the Examiner notes that claims 1-22 are pending and rejected. Claims 1, 8 and 22 have been amended.

In view of both the amendments presented above and the following discussion, Applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, Applicant believes that all of the claims are now in allowable form.

It is to be understood that Applicant, by amending the claims, does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response.

REJECTIONS

35 U.S.C. §102

Claims 1-7

The Examiner has rejected claims 1-7 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,410,326 to Goldstein (hereinafter "Goldstein"). Applicant respectfully traverses the rejection.

Independent claim 1 recites features of Applicant's invention that Applicant considers to be inventive. In particular, independent claim 1 recites:

1. A television delivery system for generating an interactive electronic program guide for display on a television connected to a set top terminal, the system comprising:
 - an operations center comprising:
 - a means for packaging a plurality of television programs; and
 - a means for generating program control information including data associated with the packaging of the television programs;
 - a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;
 - a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal

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comprising:

- a microprocessor for executing program instructions;
- a graphic memory;
- a graphic generator to generate graphics from the graphic memory;

and

- a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator;
- wherein the terminal generates an electronic program guide having a series of menus comprising:
 - a home menu;
 - a plurality of major menus displayed as menu options on the home menu;
 - a plurality of sub-menus displayed as menu options on the plurality of major menus; and
 - a plurality of during programming menus enacted after selection of a program; wherein the series of menus are linked in a tree sequence and the subscriber interface for choosing the option for bypassing at least one menu of the series of menus. (emphasis added).

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Holst & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The Goldstein reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

Specifically, the Goldstein reference fails to teach or suggest at least "the series of menus are linked in a tree sequence and the subscriber interface for choosing the option for bypassing at least one menu of the series of menus" as recited in independent claim 1. This feature is described, for example, in the specification on page 48, lines 29-30 and page 51 line 1.

The Goldstein reference discloses a universal remote control device which is programmed to operate a variety of consumer products. The device is connected over a bidirectional link to either a cable converter or a telephone interface for receiving programming information. A touch screen display is employed on the programmable remote control device for displaying icons of functions to be selected. By selecting a particular displayed icon, a command can be decoded and sent via an infrared link to one or more appliances. Infrared codes for operating a virtually unlimited number of

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devices can be supplied to the device over the bidirectional communications link. Further, a provision is provided to permit a telephone connection to be set up between the user's home and a facility advertising products or services over a cable television broadcast. The touch screen display will permit the actual display of these advertisements as messages received from the cable head end system. Orders may be placed from the universal remote control device based on these displayed advertisements.

Goldstein does not teach or suggest a terminal that generates an EPG having a series of menus in a tree structure, and a subscriber interface capable of choosing an option for bypassing at least one menu of the series of menus.

As such, Applicant submits that independent claim 1 is not anticipated by Goldstein and is patentable under 35 U.S.C. §102. Claims 2-7 depend, directly or indirectly from independent claim 1 while adding additional elements. Therefore, claims 2-7 are also patentable over Goldstein under §102 for at least the same reasons that claim 1 is patentable. Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

Claim 22

The Examiner has rejected claim 22 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,477,262 to Banker et al. (hereinafter "Banker"). Applicant respectfully traverses the rejection.

Independent claim 22 recites features of Applicant's invention that Applicant considers to be inventive. In particular, independent claim 22 recites

22. A television delivery system for generating an interactive electronic program guide for display on a television connected to the set top terminal, the system comprising:
an operations center comprising:
a means for packaging a plurality of television programs; and
a means for generating program control information including data associated with the packaging of the television programs;
a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;
a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:

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a microprocessor for executing program instructions;
a graphic memory;
a graphic generator to generate graphics from the graphic memory;
and
a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator;
wherein the terminal generates an electronic program guide comprising:
a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection; and
a main menu having one or more main menu items for selection, which main menu items correspond to the interactive menus, wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input; and
a cursor for navigation of the menus, wherein the cursor movement corresponds to the user input and assists in the selection of one or more main menu items wherein the menus are linked in a tree sequence, and the sequence of menus and each menu structure are adapted for an "eye-off-the-remote" construction. (emphasis added).

Specifically, the Banker reference fails to teach or suggest at least the feature of "a cursor for navigation of the menus, wherein the cursor movement corresponds to the user input and assists in the selection of one or more main menu items wherein the menus are linked in a tree sequence, and the sequence of menus and each menu structure are adapted for an "eye-off-the-remote" construction" as recited in independent claim 22. This feature is described in the specification on page 47 lines 17-19.

The Banker reference discloses an apparatus for providing a user friendly interface to a subscription television terminal comprises a key pad arranged into a plurality of key groupings and an on-screen display controller for generating a plurality of screens for display on an associated television receiver. Five such key groupings are segregated from one another and comprise function keys, initialization keys, channel keys, audio keys and digit keys. The digit keys may be most conveniently arranged in a two dimensional matrix corresponding to a key pad of a conventional tone dialing telephone. Each of the other key groupings may be arranged linearly and differentiated by the use of color or boxes. A method of initializing the cable television terminal comprises the steps of generating a display of a menu structure, actuating the

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movement of a cursor in one direction through choices presented by a menu by use of a cursor key, and actuating a selection of a menu choice via actuation of a select key. For example, a sleep timer may be implemented in a subscription television terminal for turning off power to an associated television set after a predetermined period of time. Parental control of received channels can be established such that only those having knowledge of a particular code may view the parentally controlled channel. Other features of a terminal in accordance with the invention include messaging, establishing a favorite channel list, pay-per-view, program timing, and terminal control.

Baker does not teach or suggest a terminal having a plurality of interactive menus having a cursor for navigation of the menus, wherein the cursor movement corresponds to the user input and assists in the selection of one or more main menu items as claimed in claim 22.

Accordingly, Applicant submits that independent claim 22 is not anticipated by Banker and is patentable under 35 U.S.C. §102. Claims 2-7 depend, directly or indirectly from independent claim 1 while adding additional elements. Therefore, claims 2-7 are also patentable over Goldstein under §102 for at least the same reasons that claim 1 is patentable. Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

35 U.S.C. §103

Claims 8-21

The Examiner has rejected claims 8-21 under 35 U.S.C. §103(a) as being unpatentable over Banker in view of U.S. Patent 5,539,871 to Gibson (hereinafter "Gibson"). Applicant respectfully traverses the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its

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properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The Banker and Gibson references, alone or in combination, fail to teach or suggest Applicant's invention as a whole.

Independent claim 8 recites features of Applicant's invention that Applicant considers to be inventive. In particular, independent claim 8 recites:

8. A television delivery system for generating an interactive electronic program guide for display on a television connected to a set top terminal, the system comprising:
an operations center comprising:
a means for packaging a plurality of television programs; and
a means for generating program control information
including data associated with the packaging of the television programs;
a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;
a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:
a microprocessor for executing program instructions;
a graphic memory;
a graphic generator to generate graphics from the graphic memory;
and
a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator;
wherein the terminal senses one or more interactive features during a selected program, and generates an electronic program guide comprising:
a logo that is displayed on the television; and
an overlay menu that is displayed during the selected program, the overlay menu including the interactive features, wherein the logo indicates to a user that the interactive features are available for the selected program, and wherein the overlay menu is displayed in response to a signal received from a user input and wherein the overlay menu is in a series of menus that are linked in a tree sequence. (emphasis added).

The Banker reference fails to teach or suggest at least Applicant's invention as described in claim 8. In particular, Banker discloses an apparatus for providing a user friendly interface to a subscription television terminal comprises a key pad arranged into a plurality of key groupings and an on-screen display controller for generating a plurality of screens for display on an associated television receiver as described above. Banker fails to teach or suggest Applicant's claimed terminal that generates an electronic

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program guide (EPG) having menus in a tree structure that also senses whether a program includes interactive features for placing an icon for the subscriber to access the interactive features in the menu within the tree structure as claimed. This feature is disclosed in the specification at least on page 53, line 8.

The Gibson reference fails to bridge the substantial gap between the Banker reference and Applicant's invention. In particular, Gibson discloses a method and system in a data processing system for selectively associating stored data with an animated element within a multimedia presentation in a data processing system. At least one data set is created or identified within the data processing system. The data set is then associated within the data processing system with a selected animated element within the multimedia presentation. Thereafter, during the multimedia presentation, the existence of the data set and the association between the data set and the selected animated element is graphically indicated utilizing a rectangle surrounding the animated element, a blinking figure near the animated element or any other suitable graphic indicator. A user may elect to have the associated data set presented by selecting the additional graphic element associated with the specified animated element, or by selecting a "button" or other graphic indicator, during a specified period of time following the graphic indication.

Gibson fails to teach or suggest Applicant's claimed terminal that generates an EPG wherein the overlay menu is in a series of menus that are linked in a tree structure and the EPG also senses whether a program includes interactive features for placement of an icon in the menu within the tree structure for accessing the interactive feature.

As such, Applicant's independent claim 8 is patentable under 35 U.S.C. §103(a) over Banker in view of Gibson. Claims 9-21 depend, directly or indirectly from independent claim 8 while adding additional elements. Therefore, claims 9-21 are also non-obvious and patentable over Banker in view of Gibson under §103 for at least the same reasons that claim 8 is patentable over Banker in view of Gibson under §103. As such, Applicant respectfully requests that the Examiner's rejection of claims 8-21 under 35 U.S.C. §103(a) be withdrawn.

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CONCLUSION

Thus, Applicant submits that none of the claims, presently in the application, are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jasper Kwoh at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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E J Wall
Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808